

WOODBURN PLANNING COMMISSION MEETING MINUTES
September 11, 2008

CONVENED The Planning Commission met in a regular session at 7:00 p.m. in City Hall Council Chambers with Chairperson Lima presiding.

Chairperson Lima questioned members of the Planning Commission having potential conflicts such as family, financial, or business relationship with any of the applicants or with regard to the project in question. If such a potential conflict exists, he asked whether the commissioner in question believes he or she is without actual bias or whether he or she would like to step down from the Planning Commission during the case. There were none. There were no objections from those present.

Chairperson Lima announced: agenda is available at the back of the room. We will consider cases one at a time according to the order listed in the agenda. We will follow the hearing procedure outlined on the public hearing procedure board. All persons wishing to speak are requested to come to the podium and give their name and address. Any individuals speaking from other than the podium will not be recognized.

Commissioner Jennings led the salute to the flag.

ROLL CALL

Chairperson	Lima	P
Vice Chairperson	Bandelow	P
Commissioner	GrosJacques	A
Commissioner	Vancil	P
Commissioner	Grigorieff	P
Commissioner	Hutchison	P
Commissioner	Jennings	P

Staff Present: Natalie Labossiere – Interim Community Development Director
 Carrie Brennecke – Associate Planner
 Alexandra Sprauer – Interim Administrative Assistant
 Jon Stuart – Assistant City Attorney

MINUTES

A. Woodburn Planning Commission Meeting Minutes of July 24, 2008.

Commissioner Jennings moved to accept the minutes. Commissioner Hutchison seconded the motion, which unanimously carried.

BUSINESS FROM THE AUDIENCE

None.

COMMUNICATIONS

- A. Woodburn City Council Meeting Minutes of June 12, 2008
- B. Woodburn City Council Meeting Minutes of June 23, 2008
- C. Special Woodburn City Council Meeting Minutes of July 7, 2008
- D. Woodburn City Council Meeting Minutes of July 14, 2008

- E. Special Woodburn City Council Meeting Minutes of July 16, 2008
- F. Special Woodburn City Council Meeting Minutes of July 17, 2008

No comments were made.

PUBLIC HEARING

- A. S-Curve & Highway 214 – Joe Consani, Applicant – Design Review 2008-03

The applicant requests a design review for a 7,992 square foot medical and professional building.

Interim Community Development Director Labossiere announced the new direction the Planning Division was moving with regards to conditions of approval. The division hopes to eliminate many unnecessary and/or repetitive conditions, and communicate with applicants prior to submittal.

Commissioner Jennings stated that he was contacted by a member of the elected body who was concerned about the Woodburn Crossings project, and the many conditions of approval. Repetitive conditions should be eliminated.

Commissioner Hutchison commented on the difficult boiler plate conditions compared to the specific project.

Staff Report

Associate Planner Brennecke read the applicable ORS then commenced her presentation.

The S-Curve property is a 45,165 square foot area zoned Commercial Office (CO) and designated Commercial on the Comprehensive Land Use Plan Map. The current proposal is for a one story 7,992 square foot, L-shaped medical-professional building with 32 parking spaces and one loading space. ODOT approved the application for the state highway approach with mitigation on April 28, 2008.

Adjacent properties to the North and East are zoned Retirement Community Single Family Residential (RIS) with single family homes. Across the Highway to the West is an office building with dental offices, and to the South is a retirement community.

The aerial photo depicts the site with adjacent land uses. Another photo depicts an accurate perspective of adjacent single family homes. There are few existing trees on site, which will be removed for the development. New trees greater than a 2:1 ratio are proposed.

The site plan depicts prominent features of the project: a six-foot buffer wall along the North and East property lines; two on-site stormwater detention basins; a ten-foot wide natural gas easement along the East property line; a five-foot right-of-way dedication along the front; and a right-in, right-out driveway.

The building elevation drawings show the south, west, north, and east.

Architectural Design Guidelines for the WDO include the “should” versus “shall.” The submitted plan’s information does not clearly demonstrate if the guidelines are achieved. The development may conform, but it can not be confirmed with the information that has been provided, therefore,

certain guidelines have been placed in the conditions.

One condition involves the thirty percent glass requirement. The second involves the earth tone color. The third requires that the landscaping be augmented on the site in specific areas to address the abutting residential uses. The fourth requires that the vehicle access points should be landscaped and augmented with monument entrance signs. The fifth involves the lack of an outdoor lighting plan.

The applicant submitted a landscape plan for the project that was deemed complete. There are some landscape standards that are not met that were placed on the conditions. The front yard is entirely the complete site, except for the building footprint and the area behind the building. The site requires a total of 1,688 plant units to achieve a density of one plant unit per twenty square feet. The submitted plans show approximately 778 plant units, 910 plant units less than required.

Offsite parking and circulation are located on the front yard. The submitted site plans does not show the minimum 607 plant units. The applicant indicated street trees on the site plan, not in the public right-of-way. The property has approximately 500 feet of frontage that require 20 small trees, 15 medium trees, or ten large trees, and are part of the Conditions of Approval.

Staff recommends approval of case DR 2008-03 subject to the conditions of approval attached to the staff report. Associate Planner Brennecke concluded the staff report and was available for questions.

Chairperson Lima asked if there were any questions to staff.

Commissioner Jennings requested to return to the first set of conditions from the Project Summary, and inquired of the meaning "approach with mitigation".

Associate Planner Brennecke stated that the applicant submitted correspondence from ODOT which explained the approval, decision and required mitigation.

Chairperson Lima stated that the applicant had previously submitted an application and was withdrawn because the property was to be purchased by ODOT.

Commissioner Hutchison questioned whether the landscaping plan included the parking lot square footage. When everything is considered frontage, it creates a density problem in the planter boxes.

Chairperson Lima asked if there were any further questions of the staff.

None.

Chairperson Lima invited the applicant for testimony.

Bruce Kenny, 9318 N. Mohawk Ave., Portland, OR 97203. Kenny is the architect on the project. He stated that an issue was the right-in, right-out, and the requirement to install several raised curbs/medians in the roadway to keep traffic from building up in the turn lanes. The Public Works Department did not have any service plans for the property. Kenny believes that a vacated portion of Princeton Road has a utility easement in which they can gain access to water and sewer from Rainier Road. The Northwest Natural gas easement is on the east and north sides of the property. It is compatible with the building because the required setback is in the

same location as the easement. The broad frontage landscape requirements could be mitigated. They would be happy to provide the required landscaping. There is an extensive amount of buffer wall created and will conform. They feel it is a good mix for the neighborhood in terms of its approved uses. Medical/Dental offices don't have high volume traffic.

Commissioner Jennings asked if there is an entry off Rainier Road.

Kenny replied no.

Vice Chairperson Bandelow asked about the curb design use, attempt to gain access from the opposite direction, and to creating an island.

Kenny stated that the curbs would create an island that would prevent access from the opposite direction.

Chairperson Lima asked about a left turn for the eastbound traffic.

Kenny answered that there would not be a left turn.

Commissioner Hutchison suggested that one possibility to mitigate the landscaping would be to use signage as hardscape to reduce some of the plantage requirements.

Interim Community Development Director Labossiere stated that City Council, approved on Monday, September 8, 2008, to allow sign hardscape to reduce plantage requirements. It is now in effect part of the WDO.

Assistant City Attorney Stuart stated law applies, when the applicant submitted the application. The applicant can have some assurity that they are not going to have the rules changed immediately.

Vice Chairperson Bandelow indicated that some of the landscaping requirements are "shoulds" and a planting of large plant units could result in more space.

Kenny stated that he had not looked at the specifics on density. There are two detention areas that require intense landscaping. The plant units could be achieved by planting those areas.

Chairperson Lima asked Kenny to address the question regarding ODOT purchasing the property.

Kenny stated that discussions with ODOT were, purchase of property, purchase approval, and use of the property. If purchased, it would remain vacant and require maintenance

Commissioner Jennings asked if ODOT was required to purchase property.

Kenny answered no. The required frontage of 15 feet is to accommodate future improvements that have been discussed.

Chairperson Lima asked that if the application is approved, when is the expected date to commence construction.

Kenny stated that their documents are near ready. With approval, they must submit the drawings to ODOT for the work in the highway, revise the drawings, and submit for building

permits.

Chairperson Lima asked if this is going to be a medical/dental clinic or offices.

Kenny replied that the facility would be medical/dental offices, and are the targeted type of tenants.

Chairperson Lima asked if there were any further questions for the applicant.

Kenny stated that Item 15 under the general conditions says the applicant shall pave the buffer yards between the proposed structure and the buffer wall in accordance with the stated WDO. What I think that is referring to is that we *can* pave that area where there are parking areas and those areas we would not need to landscape. But the rest of the buffer is landscaped.

Associate Planner Brennecke stated that this is referring to the buffer yards behind the building. The choice is to landscape it or pave it. The ordinance states that it needs to be landscaped or paved.

Chairperson Lima invited additional testimony on behalf of the applicant.

Joe Consani, 16119 SE First St, Vancouver, WA 98684, applicant. He commented on requests from neighbors with regards to trees behind the building. He suggested tall, slender red maple trees as a solution.

Vice Chairperson Bandelow inquired about the thirty-percent glass requirement and the glaze percentage.

Associate Planner Brennecke replied that it was unclear on the site plan, and the WDO states that it "should" be thirty-percent.

Chairperson Lima asked if there were any further questions of the applicant.

Chairperson Lima asked if there were any proponents for this application.

Phil Hand, 313 McLaughlin Drive, Woodburn, OR 97071. Hand is a property owner across the highway. He was concerned about the divider, the size, and the similarity to other dividers near the freeway.

Kenny commented about an ODOT study, which included the length and the beginning point.

Associate Planner Brennecke read the dimensions from ODOT's Mitigation Report, which included that the applicant shall construct at their expense a raised traffic separator that will extend a minimum of 50 feet east and 200 feet west of the approach road location. The traffic separator will be located along the southernly edge of the existing center turn lane on Highway 214.

Hand commented on the vacated property and senior citizen accessibility.

Chairperson Lima asked if there were any additional proponents.

Loraine Cox, 1700 Rainier Road, Woodburn, OR 97071. Cox lives in one of the homes located off of the vacated road. She owns half of the road. It was granted in 1984 to that property, and

the neighboring property. (Indicated property on map). Cox stated that she is not against the building being built on the property, as it would no longer be a fire hazard. However, she does not want commercial traffic through her (vacated) road. One of the reasons she purchased the property was because of the quarter acre lot. Both she and her neighbor own the largest properties in senior estates. She has owned the property for four years. The road was deeded to the property in 1984 to the prior owners. When she talked with the city water department they could not find the documents that showed the city water and sewer easements. There is currently nothing there. They believe there is an assessment but it is not attached to the city or county documents. Another concern was that the vacated road has been patched, and is no longer maintained by the city. She put up fencing to prevent golf cart, commercial, homeless and foot traffic. Currently her property does not have any easements on it, and is still buildable. She considered the lack of easements part of her long time investments. She believes that there is a Northwest Natural easement on the S-Curve property, although it is not marked on the applicant's documents. She would prefer a seven-foot buffer wall. She called ODOT and left a message with Alan Fox in regards to a twelve-foot sound wall that she believed was required in ODOT's Highway 214 Interchange Project Program, in both the north and south design.

There was discussion with regards to ODOT's required sound mitigation buffer wall.

Commissioner Jennings asked if Cox was sighting law or a proposal.

Cox stated that she was sighting the Noise Mitigation section of ODOT's Highway 214 Interchange Project Program, and the Environmental Impact Study for Highway 214. Cox asked if the wall was only a recommendation in the study.

Vice Chairperson Bandelow stated yes. It was only a recommendation in the study. It would be a real surprise if there was ever a twelve-foot wall along there.

Cox stated that ODOT proposed the twelve-foot wall because of the continuous backed up traffic. The Environmental Impact Study takes in factors such as sound and air quality.

Commissioner Jennings asked if the study recommended changes for the rest of Highway 214.

Cox stated that the twelve-foot sound wall would extend from Country Club Road to Broughton Way. The information was received from an ODOT plan published two years ago.

Vice Chairperson Bandelow stated that there is a big difference between recommendations and approved plans.

Interim Community Development Director Labossiere read the statement from the ODOT 214 Plan. It stated: "The third area of noise mitigation consideration is located north of Oregon 214 from Oregon Way to Astor Way. This area has a total of thirty-four residents that would experience traffic noise impacts under alternative one, widen equal, and twenty-nine noise impacted residents under alternative two. A noise barrier 2460 feet long, twelve-feet high, located approximately three feet inside the right of way line *could* reduce the traffic noise levels..."

Vice Chairperson Bandelow inquired if the statement was from ODOT's Impact Study.

Interim Community Development Director Labossiere stated the statement was taken from ODOT's Impact Study.

Commissioner Grigorieff stated that the wall is not something the Planning Commission can decide. The issue is between the homeowners and ODOT. At the time ODOT did the study, the property was for sale and either ODOT or the city would have bought the property. Now it is owned by a private party and you cannot put a wall on someone else's property.

Cox stated the portion of property the wall was to be built on is ODOT's right-of-way.

Commissioner Vancil stated that the entire property is not the state's right of way. The state does not own that piece of property.

Cox stated that she has a document that showed ODOT's right-of-way where the proposed wall is to be built. She stated that she understands that the Planning Commission only has authority to decide whether the applicant is required to build a six-foot or seven-foot buffer wall.

Chairperson Lima stated Cox's concerns for the applicant to address: 1. drainage; 2. a six versus seven foot buffer wall; 3. golf cart traffic on her private road; 4. right-of-way and easements.

Chairperson Lima invited other opponents of the application.

Mick DeSantis, 173 McLaughlin Drive, Woodburn, OR 97071. He expressed concern about ODOT's involvement with property owners over findings. He commented on Highway 214 widening project.

Chairperson Lima invited additional opponents.

None.

Chairperson Lima invited the applicant for a rebuttal.

Kenny addressed Cox's concerns. He stated that there will be detention ponds that will provide sufficient rainwater storage. There is a small pipe that comes out but does not impact the roadway. The barrier wall requirement is to provide a six-foot wall. A higher wall can be built but that is only if the adjacent property owners would like to participate in the construction.

Associate Planner Brennecke stated that the code requirement is for a six to seven foot wall. A higher wall would need a variance. As the WDO states, as per code, seven feet is the maximum.

Kenny stated that given the length of the wall they would prefer a six foot wall. The wall would also prevent access to the vacated roadway. The right-of-way documentation by the Woodburn Public Works Department showed the easement to be three feet onto the neighbor's property and fifteen-feet towards the right-of-way of Princeton Road.

Chairperson Lima closed the hearing and was open for discussion.

Commissioner Jennings stated that he was concerned about several conditions, and would make a motion to remove conditions 17, 18, 19, 20, and 21. They were all addressed elsewhere and were not needed. On condition 15, the word "shall" needs to be changed to "should". Several landscaping conditions, condition 24 and 25, also need to be addressed. We are requiring too many plant units, and need to look into what we are requiring.

Kenny stated that there will be detention ponds that will provide sufficient rainwater storage. The barrier wall requirement is to provide a six-foot wall.

Associate Planner Brennecke stated that the code requirement is for a six to seven foot wall. A wall taller than seven feet would require a variance.

Kenny stated that the right-of-way documentation from the Woodburn Public Works Department showed the easement to be three feet onto the neighbor's property and fifteen-feet towards the right-of-way of Princeton Road.

Chairperson Lima closed the hearing and opened for discussion amongst the Planning Commission members.

Commissioner Jennings stated that he was concerned about several conditions.

Commissioner Hutchison stated that he wanted clarification on the signs that were submitted and compliance with the WDO.

Commissioner Jennings inquired of the purpose for the "conditions of approval". Items required by the WDO should not be a part of the conditions of approval.

Chairperson Lima asked staff about condition #21.

Associate Planner Brennecke stated that conditions 18 through 32 were standard Public Works Department requirements.

Interim Community Development Director Labossiere stated that the signage condition was due to the item not discussed with the applicant. Currently, Planning staff uses the conditions of approval as a checklist for building permits. Eliminating conditions of approval would require staff to use the staff report as the boiler plate.

Commissioner Vancil stated that he believes it is a perfect project, and is glad to see that highway issues are being considered. He agrees with Consani that the highway should be widened to the north, and believes that this hearing will help with the process and the affirmation of the elected body. As these types of projects are filled in, ODOT does not have the funds to buy this office building and knock it down, and that is why ODOT has a fifteen-foot easement and why this project is being planned accordingly.

Vice Chairperson Bandelow agreed that this is a good project. The six foot wall is adequate because there is no way to buffer from the highway. That is not the responsibility of the property owner. The six-foot wall is intended to buffer their project from the residential area. A wall is required whenever commercial is abutted against residential. The wall is to protect the residential from the commercial, not to buffer the noise from the highway.

Commissioner Grigorieff stated that she is glad that something is going in the property, and that it will no longer be vacant.

Commissioner Hutchison stated that conditions 18 through 20 should be removed, and having options in place of landscaping requirements.

Vice Chairperson Bandelow asked staff if the final landscaping plan had been submitted.

Associate Planner Brennecke stated that the applicant had submitted a landscape plan. The submittal of a final landscape plan that meets standards is listed as one of the conditions of approval.

Chairperson Lima stated that for condition #15, the word “shall” needs to be changed to “should”.

Assistant City Attorney Stuart stated when there is a condition that uses “should” is an issue. It does not give direction to the staff, and is a permissive word. His recommendation on condition 15 would be to keep the “shall” but change it to, “the applicant ‘shall’ pave or landscape”. The recommended condition allows the applicant to make a choice. The word “should” is used in the WDO to allow the Commissioners to make the decision of whether to make it a “shall” or not. Condition #22 states that at least thirty percent of the wall surface abutting Newberg Highway “should” be made of glass. The recommendation for conditions 23, 24 and 25 that the Commissioners make the determination of the percentage and make that a “shall”. Because “should” is a permissive word, it is discretionary by the Planning Commission on the thirty-percent requirement. Placing “should” is inappropriate in the Conditions of Approval.

Commissioner Vancil stated conditions are required when issues are discretionary, and use the word “should”.

Assistant City Attorney Stuart stated that discretion comes from the word “should” in the WDO. Because conditions 22 through 26 are recommended from staff as possible conditions, the Planning Commission can add them using their discretion. The Planning Commission can take all of them out.

Chairperson Lima inquired about conditions 17 through 21.

Vice Chairperson Bandelow made a motion to approve DR 2008-03 with the following changes:
Condition 15: Change it to read “The applicant shall pave or landscape the buffer yards.”
Condition 22: Referring to the thirty percent wall surface: Change “The amount of glazing is approved as per the blueprints submitted. They may or may not be thirty percent; they may be greater at this point.”
Condition 23: should changed to shall
Condition 24: should changed to shall
Condition 25: should changed to shall

Commissioner Jennings moved to amend the motion to include the removal of conditions 18 through 21. Commissioner Vancil seconded the motion, which passed unanimously with one “no” vote.

ROLL CALL

Chairperson	Lima	yes
Vice Chairperson	Bandelow	yes
Commissioner	GrosJacques	---
Commissioner	Vancil	yes
Commissioner	Grigorieff	yes
Commissioner	Hutchison	yes
Commissioner	Jennings	no

ITEMS FOR ACTION

Commissioner Vancil made a motion to approve the Final Order for Design Review 2008-03.

Assistant City Attorney Stuart stated that a motion to approve a final order can be made, if it is prepared with the modifications. A final order would need to be in writing.

Associate Planner Brennecke stated that she would be able to provide a written final order for approval.

Commissioner Jennings requested to read the final order prior to approval.

Chairperson Lima called for a five minute recess.

Vice Chairperson Bandelow states that she would like to eliminate the thirty percent.

Interim Community Development Director Labossiere suggested verbiage with regards to the glass wall: "the wall surfacing abutting Newberg Highway shall be in glass as shown on exhibit D."

Assistant City Attorney Stuart stated that he agreed with the verbiage. He suggested an informal training by the Legal Department at a Planning Commission Meeting regarding discretionary conditions.

Chairperson Lima suggested training on a night when there are no hearings.

Interim Community Development Director Labossiere stated that Exhibit A was the Staff Report's Findings and Conclusions.

Commissioner Vancil stated that final orders should be signed at the following public meeting.

Commissioner Jennings made a motion to approve Final Order DR 2008-03. Commissioner Vancil seconded the motion, which carried unanimously.

DISCUSSION ITEMS

Commissioner Vancil stated that he was in support of staff's new, more user-friendly and clear process for applicants, and the reduction of the number of conditions. Workshops and discussions should be addressed at training sessions.

Commissioner Jennings commented that the Planning Commissioners and the City Council Members should attend the same workshops.

Chairperson Lima acknowledged Item B, to cancel the Planning Commission meeting for September 25, 2008 due to the lack of hearing items.

Commissioner Jennings made a motion to cancel the Planning Commission Meeting for September 25, 2008. Vice Chairperson Bandelow seconded the motion, which carried unanimously.

Commissioner Hutchison commented on the lighting at OCDC and the historic overlay of the community.

Vice Chairperson Bandelow suggested that the lighting may have been based on OCDC being a school.

Associate Planner Brennecke stated that there is only one standard of lighting.

Commissioner Vancil stated that safety concerns need to be taken into consideration when considering phasing plans.

REPORTS

Commissioner Jennings inquired about a temporary sign permit at the Woodburn Company Stores.

Interim Community Development Director Labossiere explained that signs are installed prior to an application being submitted.

BUSINESS FROM THE COMMISSION

Chairperson Lima stated concern about employee turnover in the Planning Division, and the stress that it causes to the Planning Commission, the public, and staff.

There was discussion amongst the Planning Commission members about the fit of Community Development Directors and Planning Division staff.

ADJOURNMENT

Vice Chairperson Bandelow moved to adjourn the meeting, Commissioner Jennings seconded the motion, which unanimously carried. Meeting adjourned at 9:20 pm.

APPROVED _____
CLAUDIO LIMA, CHAIRPERSON Date

ATTEST _____
Natalie Labossiere Date
Interim Community Development Director
City of Woodburn, Oregon